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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/559,381

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EXAMINER

SHEARER, DANIEL R

ART UNIT

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3754

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/559,381	Applicant(s) BARRANCO ET AL.	
	Examiner DANIEL R. SHEARER	Art Unit 3754	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 May 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-16 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Line 5 of claim 1 recites "wherein the mineral filler does not comprise feldspar" which was not discussed in the originally filed description and claims. Further, the originally filed description and claims never discuss feldspar and therefore do not provide any reason for or benefit gained from excluding only feldspar from the mineral filler.

Warning

3. Applicant is advised that should claim 1 be found allowable, claim 15 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-5 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,565,275 to Schmidt et al. (Schmidt).

Schmidt discloses an article intended for use as seals and in valves (Col. 8, ll. 17-26) wherein the seal includes an elastomer based upon ethylene propylene diene monomer and a mineral filler that does not contain feldspar and is based upon Sillitin Z86 (Col. 8, example table) which is a natural mixture of quartz and kaolinite (See NPL, material data sheet for Z86).

Regarding claims 2-5, the mineral filler Sillitin includes a mineralogical composition of between 65% and 95% of quartz and between 5% and 35% of kaolinite, a chemical composition of between 3% and 15% of Alumina and between 75% and 95% of Silica, a pH greater than 6 and an average particle size between 1.5 and 4 microns (See NPL, material data sheet for Z86).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1, 8-12, 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 0969069 to Thomas et al. (Thomas) in view of Schmidt.

Thomas discloses an aerosol dispenser (Col. 1, ll. 3-7), with a valve seal comprising an elastomer based on ethylene propylene diene monomer (EPDM), and a mineral filler based upon kaolin (Col. 2, ll. 53-56) which is composed of kaolinite, feldspar and quartz as taught by U.S. Patent No. 4,714,544 to von Rybinski et al. (Col. 1, ll. 29-32). Thomas fails to disclose that the mineral filler does not comprise feldspar. However, Schmidt discloses an article intended for use as seals and in valves (Col. 8, ll. 17-26) wherein the seal includes an elastomer based upon ethylene propylene diene monomer and a mineral filler that does not contain feldspar and is based upon Sillitin (Col. 8, example table) which is a natural mixture of quartz and kaolinite (See NPL, material data sheet for Z86). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have manufactured the valve seal of Thomas with the material of Schmidt since Schmidt discloses in column 8, lines 10-13 that the material has excellent slide friction properties.

Regarding claims 8-12, Thomas further discloses that the aerosol dispenser includes a reservoir containing a fluid product (Col. 1, ll. 42-50), ethanol (Col. 2, ll. 33-35), and a propellant of HFC-134a or HFC-227 gas (Col. 2, ll. 20-24). The dispenser includes a regulating valve mounted on the reservoir and including a valve element sliding in a valve body with the interposition of the valve seal (Col. 1, ll. 42-50).

8. Claims 6-7 and 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schmidt in view of U.S. Patent No. 6,306,514 to Weikel et al. (Weikel).

Schmidt shows all aspects of applicant's invention as set forth in claim 1 but fails to specifically disclose the seal being subjected to a surface chlorination treatment comprising a solution of water, hydrochloric acid and bleach. However, Weikel discloses that a surface chlorination treatment comprising a solution of water, hydrochloric acid and bleach is a known process to change the characteristics of rubber (Col. 1, ll. 50-59). It would have been obvious to one of ordinary skill in the art to have provided the material of Schmidt with the treatment as taught by Weikel to achieve the desired characteristics for the material.

Regarding claims 13 and 14, the process as disclosed by the applicant is inherent in the structure of Schmidt as modified by Weikel (see rejections of claims 1 and 6-7 above).

Response to Arguments

9. Applicant's arguments with respect to claims 1-16 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL R. SHEARER whose telephone number is (571)270-7416. The examiner can normally be reached on Monday through Friday 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on (571)272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/D. R. S./
Examiner, Art Unit 3754

/Kevin P. Shaver/
Supervisory Patent Examiner, Art
Unit 3754